Trade Union
Advisory Committee
to the OECD
Commission
syndicale consultative
auprès de l'OCDE

Submission to the Investment Committee

Paris, 17 April 2020

In a submission to the Investment Committee, TUAC highlighted the importance of developing responses to the COVID-19 crisis, making sustainability the core of investment policies.

Covid 19 and the Investment Committee

The impact of COVID-19 on the world of work cannot be understated. The ILO "High" scenario where COVID-19 has serious disruptive effects, reducing GDP growth by around 8 per cent, would see global unemployment increase by 24.7 million, with the margin of uncertainty ranging from 13 million to 36 million, of which well over a half would concern high-income countries (e.g. OECD countries)[i]. As a point of comparison, the 2008-2009 crisis increased global unemployment by 22 million.

According to investment forecasts, FDI is expected to drop in 2020-21 by 40%. The crisis is also highlighting the lack of security in supply chains, particularly worrying in critical infrastructure and sensitive industries. **A comprehensive approach on reshaping GVCs post-crisis is warranted,** one that combines several OECD directorates and their respective committees.

In addition to forecasting and mapping countries' responses, **TUAC urges the Investment Committee to develop a middle term and long-term response to the crisis**. This response should include fresh thinking on how trade and investment policies should integrate social and environmental goals. Sustainability must now take precedence.

The Investment Committee is very well equipped to conduct such discussion, with its MNE Guidelines and the ongoing discussions on treaties and investor responsibilities. More specifically, the Committee's Working Party on Responsible Business Conduct can help shape such new dynamic. As TUAC explains in its recent recommendations on responsible business conduct, the **OECD MNE guidelines should help carry us through the pandemic**, the Guidelines indeed offer the most comprehensive framework available to guide government policies enabling MNEs to make positive contributions and minimise social and environment impacts.

FDI Qualities Initiative – proposal for future work

TUAC has on several occasions expressed support for the work on Foreign Direct Investment Qualities, which seeks to evaluate the impact of foreign direct investment on sustainable development. The phase 1 report confirmed trade union experience that the benefits of Foreign Direct Investment ('FDI') for foreign firms do not fully translate into better jobs and higher wages for all workers. The report also established that the benefits of innovation and productivity that may be brought about by FDI are not evenly shared among developed and developing economies.

For the continuation of the work on indicators, TUAC recommends some measurement of the impact of FDI towards wage growth and the respect of fundamental workers' rights globally. Such exercise implies a better understanding of the relationships between sending and receiving countries, in particular through competition on low labour costs. Offshoring or outsourcing of labour-intensive services are in the trade union experience often occurring for labour costs reasons.

TUAC expects that phase 2 of the FDI Qualities initiative will inform policy discussions on how to ensure that the benefits of FDI accrue to workers, not only to foreign investors. As a caveat for this work, it is important to recall that some public goods are too important to be left to private forces alone and for those governments should remain in control. Furthermore, the policy recommendations must be designed to apply to host and sending countries equally. Companies may indeed be boasting about upholding high social standards at home, whilst exploiting weak labour standards in their foreign investment[1]. With this in mind, TUAC makes the following recommendations for future work.

The toolkit must provide concrete recommendations on responsible business conduct and labour friendly policies.

The envisaged toolkit will complete the OECD Policy Framework on Investment ('PFI'). The PFI broadly encourages governments to put in place appropriate regulatory framework and useful references to the OECD MNE guidelines. Phase 2 of the FDI Qualities work should dive deeper into this field in order to produce more concrete recommendations. With a view to secure quality job, governments must ensure that the fundamental rights to collective bargaining and freedom of association can be effectively exercised. The TUAC recommendations on how to make best use of the MNE Guidelines to take us through the Pandemic can serve as a useful source of inspiration. TUAC stands ready to discuss further with the Secretariat labour friendly policies with a view to improve wages and working conditions.

The ways GVCs are organised must be reviewed for more sustainability.

The severe disruptions to investment flows caused by the Covid-19 crisis are putting to the forefront the deficiencies of today's GVCs. MNEs spread their operations

[1] See for instance AFL-CIO report (October 2019), "double standard at work: European corporate investment and workers' rights in the American South" https://aflcio.org/reports/double-standard-work-european-corporate-investment-and-workers-rights-american-south

internationally and fragment production to as to reduce their costs. This means that production can be heavily localised (in 2019, the OECD already noted that China is at the end of many value chains, particularly in the ICT sector). As we are now learning, this is a severe threat to the continuity of supply chains in case of disruptions. But to the extent that the dispersion of value chain activities is motivated by cost only, it has even more adverse consequences. The trade union movement has long been pointing out the damaging impact of unchecked liberalisation on labour, environment, public services.

There is an urgency to redesign the way investment policies influence the organisation of GVCs. A reflection is warranted on the type of FDI that countries should be attracting to secure continuity as well as climbing GVCs and securing their position in higher value added sectors. Public interventions in the form of strong industrial policies will be put in place by many governments, with important repercussions on other countries' ability to attract foreign investment. The design of industrial policies should neither be restricted nor limited to national levels only. A global reflection is therefore necessary and phase 2 of the FDI Qualities project could pave the way in this direction.

Domestic and international investment policies are intertwined.

The toolkit intends to focus on domestic policies. However, both domestic and international policies are intertwined and both levels need to be discussed together. International investment agreements often inhibit host countries' ability to regulate in the public interest.

TUAC recalls its strong support for the parallel work on the Investment Committee on business responsibilities and international agreements. In its response to the OECD public consultation of February 2020, TUAC called on the OECD to produce models that can be used by policy-makers to interpret RBC clauses in existing treaties and to negotiate new ones. We emphasised three priorities:

1. Countries should actively be reminded of their duties to regulate.
2. Foreign investors should observe responsible business conduct standards, as embodied by the OECD MNE guidelines, in their supply chains in order to benefit from treaty coverage.
3. Every international agreement should contain enforceable provisions guaranteeing the respect of fundamental social rights.

Towards a smarter use of investment tax incentives

The Investment Committee is considering whether to explore further the impact of tax incentives on investment. The trade union movement has long been denouncing tax competition, which over the years has led to a significant decrease of corporate income tax rates. This blow to public budgets will become even more acute in the aftermath of the Covid-19 crisis.

For this reason, TUAC has expressed strong support for the introduction of a minimum tax rate globally in order to limit tax competition and increase corporate tax revenues.

Whilst such proposal is part of the package of tax reforms currently on the table of the OECD Inclusive Framework, it appears that consensus towards an ambitious solution is hard to achieve.

New work on tax incentives and FDI could provide additional information on the real influence of tax incentives on the choice of location of real investment. Such information would usefully feed into meaningful tax reforms at international and domestic levels.

Tax is one among the many factors on which governments may rely in order to attract investment. Direct subsidies and in-kind benefits to investors must be taken into account when conducting a solid cost-benefit analysis and assessing the impact on the public budget and the domestic economy. Assessing the impact of tax incentives alone might not provide a sufficiently complete picture. In any case, the OECD should clearly state that any form of investment promotion should not come at the cost of social and labour dampening. It is vital that policy considerations focus on factors that do promote the achievement of SDGs including quality jobs.

Country selection should be large, including not only developing countries but also OECD countries as well as regional programmes, including South East Europe.

Furthermore, tt is important to establish a distinction between real investment and artificial flows linked to tax avoidance strategies. Both types of investment need to be analysed as tax competition can arise from any type of FDI policy. However, the distinction must be made as the spill-over from tax avoidance into domestic economy are of a different scale and nature than those arising from real investment.

Compiling cross-country database and calculating comparable effective tax rates will be most valuable. The effective tax rates should be compiled not only on national basis but also per region/ sector so as to properly catch within country differences (such as special economic zones). This information should be presented with appropriate caution in order to ensure that the report is not misused as an inventory of tax measures, inadvertently enabling countries to compete over who has the highest incentives.

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[i] COVID-19 and the world of work: Impact and policy responses 18 March 2020 https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_738753.pdf